IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 159/2007

1) M/s. V-8 Developers
having its Office at Dolls
Communication Centre,
Near St. Anne's Church
Ponda, Goa.

2) Mr. Pedro Fernandes
Partner of the Petitioner No.1,
having its Office at Dolls
Communication Centre,
Near St. Anne's Church
Ponda, Goa. ..... Petitioners.

V/s.

1. State of Goa
Through Chief Secretary,
Secretariat,
Porvorim, Goa.

2. The Director of Transport,
Government of Goa,
having Office at Junta House,
Panaji, Goa.

3. Deputy Collector, (L.A.)
Office of Collector
North Goa District,
Government of Goa,
Panaji, Goa,

4. The Under Secretary (Revenue),
Revenue Department,
Government of Goa,
Panaji, Goa. ..... Respondents.

Mr. A. N. S. Nadkarni, Advocate for the petitioners.

Mr. S. R. Rivonkar, Government Advocate for the respondents.

CORAM : S. A. BOBDE &
N.A. BRITTO, JJ.

DATE : JUNE 25, 2007.

ORAL JUDGMENT : (Per BOBDE, J.).

Rule, returnable forthwith. Heard by consent.

2. The petitioners have challenged the proposed acquisition of the land under a notification dated 5.2.07 along with the notification under Section 4. The petitioners have, in particular, challenged the action of invoking urgency clause under Section 17 of the Land Acquisition Act.

3. We have heard both sides. It appears that the acquisition is being made for construction of a weighbridge before the Usgao bridge which is a single lane bridge having length of 155 metres. Ostensibly the purpose of the acquisition is only to put a weighbridge so that the vehicles can be weighed before being allowed to proceed to the aforesaid bridge which is said to have become weak. We, however, find in the affidavit in reply at para 3 that a notification, taking note of the fact that the bridge has become weak, was issued on 25.7.1986 by the District Magistrate, North restricting the load to 16 tonnes and speed limit of 20 kms./hour and odd. Having regard to the

obvious knowledge of the respondents that the bridge is said to have become weak as early as 1986, we find no merit in the invocation of the urgency clause under Section 17 of the Land Acquisition Act in the year 2007.

4. Admittedly, the traffic is being regulated according to 1986 notification since then. In the circumstances, without making any observations in regard to the validity of the proposed acquisition at this stage, we consider it appropriate to set aside the impugned notification to the extent it includes the urgency clause. The notification is, accordingly, set aside to that extent and the respondents are directed to hear the petitioners under Section 5-A of the Land Acquisition Act within a period of six weeks from today, after the petitioners file their objections which they shall do within four weeks. Till such objections are decided, the acquisition proceedings shall not proceed. Thereafter, they may proceed in accordance with law. Rule made absolute, accordingly.

S.A. BOBDE, J.

N.A. BRITTO, J.

ssm.